IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR.

S.B. CIVIL WRIT PETITION NO.5914/2004

Govardhan and anr. vs. Manak Chand & ors.

Date : 4.1.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Ravi Bhansali, for the petitioners.

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Heard learned counsel for the petitioner.

The petitioners are aggrieved against the order dated 27.8.2003 by which the trial court dismissed the petitioners' application under Order 1 Rule 10 C.P.C.

The non-petitioner no.1/plaintiff filed the suit for eviction of his tenant Shyam Sunder (non-petitioner no.2) on the ground of default in payment of rent etc.

The petitioners submitted an application before the trial court under Order 1 Rule 10 C.P.C. for being impleaded as party in the suit alleging that the petitioner no.1 was in service of Rajasthan State Electricity Board, therefore, the suit shop was taken on rent by the petitioners in the name of non-petitioner no.2 Shyam Sunder. Shyam Sunder is son of the petitioner no.1 and brother of the petitioner no.2.

It appears from the facts of the case that the trial court determined the rent but the defendant did

not deposit the rent, therefore, the defence of the defendant was struck off by the trial court. According to the petitioners, there is dispute between the petitioners and non-petitioner no.2 Shyam Sunder, who is defendant in the suit, and because of this dispute only, the non-petitioner no.2 did not take any interest in the suit and as such, the petitioners are necessary party to contest the suit.

I have perused the reasons given by the trial court in the impugned order.

It is clear from the facts of the case that it is not in dispute that the suit shop was taken on rent in the name of Shyam Sunder and even if the contention of the petitioners is accepted that the same was taken in the name of Shyam Sunder, then the suit has rightly been filed against the defendant Shyam Sunder by the plaintiff Manak Chand. The trial court has not committed any error of law or error of fact or even error of jurisdiction, therefore, I do not find any reason to interfere in the impugned order.

In view of the above, this writ petition having no force is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya